

APPEAL NO. 031927
FILED SEPTEMBER 9, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 19, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and that she had disability on September 21 and September 22 and again beginning on September 27 and continuing through December 19, 2002. The appellant (carrier) appealed the above determinations, arguing that no evidence supports the determinations of the hearing officer or alternatively that the determinations are against the great weight and preponderance of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable injury as defined by Section 401.011(10) and that she has disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the disputed issues. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Section 410.165(a). The carrier contends that the hearing officer erred in determining that the claimant sustained a compensable injury and had disability. The carrier asserts that, because the claimant was injured before she began work, and that there was no evidence that she was engaged in an activity that originates in the work of the employer, she was not injured in the course and scope of her employment.

The hearing officer specifically found that the claimant was reviewing memos and insurance paperwork at the time she sustained the injury which was an act reasonably anticipated to be performed by an employee on the premises. The claimant testified that the memos included prices and specials of the employer and were updated regularly. Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Section 401.011(12) provides, in pertinent part, as follows:

"Course and scope of employment" means an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while

engaged in or about the furtherance of the affairs or business of the employer.

In this case, the injury occurred shortly before the claimant clocked in and at a place on the premises where the employer expressly or by implication invited the employees to be prior to actually beginning their duties. Under the facts of this case, the hearing officer could and did find that the claimant sustained a compensable injury while in the course and scope of her employment. Texas Workers' Compensation Commission Appeal No. 91037, decided November 20, 1991; Texas Workers' Compensation Commission Appeal No. 952084, decided January 22, 1996. We will not substitute our judgment for the hearing officer's because her determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The hearing officer explained that based on the evidence presented, the claimant established that she was in the course and scope of her employment at the time of the injury. Nothing in our review of the record indicates that the hearing officer's determinations relating to course and scope and disability are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **UNITED STATES FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PAUL DAVID EDGE
6404 INTERNATIONAL PARKWAY, SUITE 1000
PLANO, TEXAS 75093.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge